

EXHIBIT A

1 Joe Shaeffer, WSBA #33273
2 MacDonald Hoague & Bayless
3 On behalf of The American Civil Liberties
4 Union of Washington Foundation
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6 Seattle, WA 98104-1745
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11 Los Angeles, CA 90071
12 (213) 683-9538

Honorable Thomas O. Rice

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF WASHINGTON AT RICHLAND

13 JOHN DOE 1; JOHN DOE 2; JANE
14 DOE 1; JANE DOE 2; JANE DOE 3; and
15 all persons similarly situated,

16 Plaintiffs,

17 v.

18 WASHINGTON STATE DEPART-
19 MENT OF CORRECTIONS; CHERYL
20 STRANGE, Secretary of The Department
21 of Corrections, in her official capacity,

22 Defendants.

NO. 4:21-cv-05059-TOR

SETTLEMENT AGREEMENT

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SETTLEMENT AGREEMENT
NO. 4:21-CV-05059-TOR

DISABILITY RIGHTS WASHINGTON
315 5TH AVE S., SUITE 850
SEATTLE, WA 98104
(206) 324-1521

1 This Settlement Agreement is between undersigned Plaintiffs JOHN and
2 JANE DOEs, and the provisional class they represent, through counsel KATHE-
3 RINE M. FORSTER, ETHAN FRENCHMAN, JOE SHAEFFER, and NANCY
4 TALNER, and Defendants Washington State Department of Corrections and Cheryl
5 Strange, in her official capacity as Secretary, by and through their attorneys of rec-
6 ord, ROBERT W. FERGUSON, Attorney General, and CANDIE M. DIBBLE
7 and TIM LANG, Assistant Attorneys General. Plaintiffs and Defendants are col-
8 lectively referred to herein as the “Parties.”
9

10 I. INTRODUCTION

11 1. The purpose of this Settlement Agreement is to resolve claims asserted
12 in Plaintiffs’ Complaint for Injunctive Relief, filed in this matter in April of 2021.
13 The Complaint alleged that Defendants intended to release certain records requested
14 pursuant to the Washington Public Records Act, RCW 42.56, in violation of Plain-
15 tiffs’ rights under the Eighth and Fourteenth Amendments to the United States Con-
16 stitution; Article 1, Section 7 of the Washington Constitution; and the injunction
17 provisions of the Washington Public Records Act. In their Answer, Defendants
18 denied Plaintiffs’ claims and alleged that no Public Records Act exemption existed
19 that would authorize the Department of Corrections to withhold the requested infor-
20 mation.
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22

23 2. On May 17, 2021, the Court entered an Order Granting Motion for
24 Provisional Class Certification (ECF No. 69) and an Order Granting Preliminary
25 Injunction (ECF No. 70). The preliminary injunction prohibited Defendants “from
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1 releasing any records (including names and prisoner identification numbers) con-
2 cerning or that identify the gender identity, transgender status (including non-bi-
3 nary, intersex, and gender non-conforming people), sexual history, sexual orienta-
4 tion, sexual victimization, genital anatomy, mental and physical health, of the pro-
5 posed class members....” ECF No. 70 at 38. The Court later entered an Order
6 Granting Defendants’ Motion for Clarification (ECF No. 98), instructing that:
7

8 Defendants are not enjoined from sharing such records in a non-public
9 manner consistent with federal and state law and penological necessity.
10 Defendants may share this information with other correctional and law
11 enforcement agencies, outside health care treatment providers for the
12 purposes of treatment, the Office of Corrections Ombuds, and the state
13 protection and advocacy system. Defendants may also release this in-
14 formation in defensive litigation where a plaintiff has already disclosed
15 the exact same information in open court, but in all other circumstances
16 information or records covered by this Order must be distributed with a
17 protective order and filed in court under seal.

18 ECF No. 98 at 4.

19 3. In 2022, the Washington Legislature passed, and Governor Inslee
20 signed into law, Engrossed Substitute House Bill 1956 (ESHB 1956). Codified at
21 RCW 42.56.475, ESHB 1956 took effect March 31, 2022, and provides an exemp-
22 tion from disclosure of certain information under the Public Records Act, including
23 information covered by the Court’s Preliminary Injunction.

24 4. The Parties agree that this Settlement Agreement embodies a compro-
25 mise and settlement of all claims that were raised in this lawsuit, and that nothing
26 herein shall be deemed an admission of any wrongdoing by or liability on the part
of the Defendants. Plaintiffs further understand and agree that by entering into this

1 Settlement Agreement, they are stipulating to the dismissal of all claims asserted in
2 their Complaint with prejudice upon completion of the term of settlement as pro-
3 vided herein. Upon such dismissal, Plaintiffs agree and covenant not to sue the State
4 of Washington or its agencies, employees and officials over the claims concluded
5 by this Settlement Agreement.
6

7 5. The Parties stipulate that the Court has jurisdiction over this action
8 pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, including to enforce the terms
9 of this Settlement Agreement, and that venue is proper in this district pursuant to
10 28 U.S.C. § 1391. This Settlement Agreement will take effect upon the Court's
11 entry of an Order approving and adopting the Agreement (the "Effective Date").
12

13 6. The Parties stipulate that the prospective relief provided in this Agree-
14 ment complies with the requirements for prospective relief under the Prison Liti-
15 gation Reform Act, 18 U.S.C. § 3626(a). The Parties stipulate that the prospective
16 relief in this Agreement is narrowly tailored, extends no further than would be nec-
17 essary to correct the violations of federal rights as set forth by Plaintiffs in their
18 Complaint, is the least intrusive means necessary to correct the violations asserted
19 in Plaintiffs' Complaint, and will not have an adverse impact on public safety or
20 the operation of a criminal justice system. Defendants agree not to contest that the
21 entry of an order adopting this Agreement or entering a permanent injunction, as
22 described below, complies with the requirements for prospective relief under 18
23 U.S.C. § 3626(a).
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II. APPROVAL PROCESS

7. **Motion for Approval:** Plaintiffs shall move the Court within 30 days of execution of this Settlement Agreement for an Order granting approval of the Agreement. Defendants will submit a statement of non-opposition.

8. **Notice:** Should the Court deem it appropriate to provide Notice of the settlement to the Class prior to granting final approval of the settlement, the Parties shall negotiate, draft, and post notice to the Class.

9. **Final Approval of the Agreement:** If the Court orders notice to the Class with a final approval hearing to follow, Plaintiffs will move for final approval of the Agreement, and Defendants will submit a statement of non-opposition to final approval.

III. SUBSTANTIVE TERMS

10. **Injunction:** The Parties agree that, solely for the purpose of facilitating this Settlement Agreement and ensuring Plaintiffs' information is protected as the Parties have agreed, the Court may enter a permanent injunction (Injunction) in the form proposed as Exhibit 1. The Injunction shall remain in effect only for the duration of this Settlement, as defined in Paragraph No. 15 below, and shall automatically terminate thereafter with the dismissal of this lawsuit, unless Plaintiffs have successfully moved the Court for an order extending the Settlement duration.

11. **Training:** Defendants agree to adopt and implement the training materials attached hereto as Exhibit 2 (Training Materials), which Plaintiffs agree will be used to instruct public records staff on the proper interpretation and application

1 of RCW 42.56.475. Defendants further agree to train all staff responsible for re-
2 viewing and redacting records under the Public Records Act within 45 days of the
3 date the Parties sign this Settlement Agreement.

4 12. **Notice to Plaintiffs' Counsel and Other Courts:** Within 5 days of
5 Defendants receiving notice of any other court action regarding RCW 42.56.475,
6 Defendants shall notify Plaintiffs' counsel of the action. Defendants shall also, in
7 responsive pleadings, promptly notify any court overseeing the action of this
8 Agreement, accompanying exhibits, and any associated orders and injunctions.

9 13. **Notification to Requestors:** Within 10 days of the Effective Date,
10 Defendants will send letters to all public records requestors with requests then
11 known to be subject to the Preliminary Injunction to confirm whether the requestors
12 wish for their requests to remain open.

13 14. **Records Review and Disclosure Process:** The Parties agree that the
14 following process will govern redaction and review of records subject to the In-
15 junction:

- 16 a. **Scope:** The purpose of this review process is to allow Plaintiffs
17 to confirm whether records and information will be protected consistent
18 with RCW 42.56.475 and the Training Materials. The Parties therefore
19 agree that Plaintiffs' review will focus solely on whether redactions/with-
20 holdings are consistent with the Training Materials and RCW 42.56.475.
21 The Parties agree this Settlement does not concern the propriety of redac-
22 tions under other Public Records Act exemptions or confidentiality laws.
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1 b. **PRR Report:** Within 45 days of the Effective Date, Defendants
2 will produce a report of all Public Records Requests since April 1, 2021,
3 including: (1) text of the request; (2) name of the requestor; (3) type of
4 requestor if known (e.g., attorney, media, incarcerated individual); (4)
5 staff member assigned to the request; (5) date of receipt; (6) request sta-
6 tus; and (7) pages offered (the “PRR report”).
7

8 c. **Doe Class List:** Within 45 days of the Effective Date, Defend-
9 ants will produce a current copy of the Defendants’ confidential list of all
10 current and former incarcerated individuals known to Defendants to be
11 transgender, intersex, gender non-conforming, and/or non-binary (the
12 “Doe Class List”).
13

14 d. **Enjoined Request List:** Within 45 days of the Effective Date,
15 Defendants will provide Plaintiffs’ Counsel a list of all outstanding re-
16 quests then known to be subject to the Injunction, including: (1) text of
17 the request; (2) name of the requestor; (3) type of requestor if known (e.g.,
18 attorney, media, incarcerated individual); (4) staff member assigned to
19 the request; (5) date of receipt; (6) request status; and (7) pages offered
20 (the “Enjoined Request List”).
21

22 e. **Updated Lists:** Within 30 days after providing the PRR Report,
23 Doe Class List, and Enjoined Request List, and every 30 days thereafter
24 for a total of four months, Defendants will update these documents. In
25 addition to updating the status of requests on previous lists, the updated
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1 lists will include the information required in subparagraphs (b) above for
2 all new requests received since the previous list was provided that are
3 known to be subject to the Injunction. Upon the request of either party,
4 the Parties shall meet for a status conference within one week of Plain-
5 tiffs' counsel's receipt of these documents.
6

7 f. **Requests to Review:** During the first six months after the Ef-
8 fective Date, Defendants shall provide Plaintiffs' Counsel relevant rec-
9 ords, including requestor correspondence, responsive records, and pro-
10 posed redactions/withholdings, for up to 27 Public Records Act requests
11 selected by Plaintiffs' Counsel from those appearing on the Enjoined List
12 or PRR Report. DOC will provide requested records with redactions
13 marked within 5 business days if the response is completed at the time of
14 Plaintiffs' Counsel's request to review. If the response is not completed
15 when Plaintiffs' Counsel request review, Defendants will make good
16 faith efforts to prioritize and complete the response (and provide it to
17 Plaintiffs' Counsel) within 60 calendar days. If the response cannot be
18 completed within 60 days, Defendants will produce an installment of no
19 fewer than 500 pages. Defendants will continue to produce an installment
20 of no fewer than 500 pages every 60 calendar days until the production is
21 complete or until 8 months after the Effective Date, whichever comes
22 first. The Parties agree that DOC will not be required to produce pro-
23 posed redactions for a request after it has been abandoned or withdrawn
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1 by the requestor. Also, in recognition of the potential workload impacts
2 of this process on DOC Public Records Unit staff, Plaintiffs agree they
3 will make good faith efforts to sequence their requests over the 6-month
4 period so as not to overwhelm staff with multiple requests at any one
5 time.
6

7 g. **Deadline for Completing Review and Response:** Plaintiffs
8 will complete their review of any request made under subparagraph (f) as
9 soon as practicable, but no later than 60 calendar days after receiving the
10 records. Upon completing their review, Plaintiffs' Counsel shall identify
11 any instances in which they believe RCW 42.56.475 was not applied to
12 the reviewed records consistent with the Training Materials.
13

14 h. **Meet and Confer:** Within ten calendar days after receiving
15 Plaintiffs' response, the Parties will meet and confer to resolve any disa-
16 greement. If the Parties cannot reach agreement, Plaintiffs will have 14
17 calendar days to file a motion for *in camera* review.
18

19 i. ***In Camera* Review:** On *in camera* review, the Parties agree
20 they will request that the Court determine whether DOC applied RCW
21 42.56.475 to the records at issue in a manner consistent with the Training
22 Materials. Before producing records that have been reviewed by the
23 Court, Plaintiffs will have ten calendar days to review the final production
24 to ensure the redactions/withholdings reflect the Court's decision.
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1 j. **Post-Review Disclosure:** The Parties agree that records that
2 have been approved for release by Plaintiffs' Counsel or the Court may
3 be disclosed to the requestor without violating the Injunction. Records
4 that have not gone through the review process and been approved for re-
5 lease will remain subject to the Injunction. Except in instances where a
6 proposed release of records is brought to the Court for *in camera* review,
7 Defendants will be the party ultimately responsible for the legal determi-
8 nation of whether records may be disclosed in response to Public Records
9 Act requests.
10

11 15. **Settlement Duration and Enforcement:** The following provisions
12 shall govern the duration and enforcement of this settlement:
13

14 a. **Automatic Expiration:** This Settlement Agreement shall auto-
15 matically expire one year after the Effective Date, at which time the Par-
16 ties will present a Stipulated Order dissolving the Injunction and dismiss-
17 ing the action with prejudice.
18

19 b. **Motion to Extend Duration:** The Court may extend the Settle-
20 ment upon motion by Plaintiffs if the Court finds that Defendants have
21 failed to apply RCW 42.56.475 in a manner substantially consistent with
22 the Training Materials, such that Plaintiffs would have a high likelihood
23 of prevailing on their Eighth or Fourteenth Amendment claims if the In-
24 junction were dissolved, or that Defendants have failed to train staff or to
25 comply with the records review and disclosure process according to this
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1 Agreement. Extension of this Agreement shall include continuing the
2 Permanent Injunction, an additional period of monitoring by Plaintiffs'
3 Counsel as described in Paragraph 14 of this Agreement, and such further
4 relief as the Court determines appropriate. For purposes of extending or
5 terminating the Settlement Agreement, the Parties agree that non-sys-
6 temic deviations shall not prevent a finding that Defendants have applied
7 RCW 42.56.475 in a manner substantially consistent with the Training
8 Materials, provided that Defendants demonstrate that they have instituted
9 policies and practices that are reasonably calculated to achieve durable
10 and sustained compliance. Evidence of episodic or isolated instances of
11 redaction/withholding errors is not a sufficient basis to extend the Settle-
12 ment.
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15 c. **Informal Dispute Resolution:** The Parties agree to work in
16 good faith to resolve disputes informally and minimize the need for Court
17 involvement in enforcing this Settlement Agreement.
18

19 d. **Enforcement:** The Court shall retain jurisdiction to enforce the
20 terms of this Agreement while it remains in effect. Violations of the
21 terms of this Agreement, including but not limited to the Injunction, train-
22 ing, and review and disclosure process, may be brought to the Court for
23 enforcement and such further relief the Court determines appropriate.
24

25 16. **Attorneys' Fees:** Within ten business days of the Effective Date, De-
26 fendants will pay \$650,000.00 in attorneys' fees and costs. The Parties agree that

1 this amount resolves the claim for attorneys' fees and costs for this litigation, in-
2 cluding any fees incurred by Plaintiffs in monitoring Defendants' compliance with
3 the initial one-year term of this Settlement Agreement. However, Defendants agree
4 that they will pay Plaintiffs' reasonable fees and costs directly associated with any
5 successful motion to enforce the Settlement Agreement, including to extend the
6 term of the Settlement or a motion for *in camera* review provided that, if Plaintiffs
7 bring a successful motion for *in camera* review, the Court will not award Plaintiffs
8 attorneys' fees for that motion if the Court finds that Defendants' interpretation of
9 RCW 42.56.475 and the Training Materials was reasonable. Defendants further
10 agree that they will pay Plaintiffs' reasonable fees and costs for monitoring De-
11 fendants' compliance beyond the initial one-year term of this Agreement, should
12 the Agreement be extended. The Parties otherwise agree that neither party is to be
13 considered a prevailing party in this action for any purpose, including, but not lim-
14 ited to, attorney fees.

17 17. **Amendment:** By mutual agreement, the parties may change the terms
18 of this Agreement, provided that such mutual agreement is memorialized in writ-
19 ing, signed by the Parties, and approved by the Court.

21 18. **Construction:** This Agreement constitutes the final written expres-
22 sion of all the terms of this Agreement and is a complete and exclusive statement
23 of these terms. No party hereto shall be considered the drafter of this Settlement
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1 Agreement for the purpose of any statute, case law, or rule of interpretation or con-
 2 struction that would or might cause the provision to be construed against the drafter
 3 thereof.

4 19. **DRW Authority:** Nothing in this Agreement shall be deemed to limit
 5 the ability of Disability Rights Washington to fulfill its federal mandates pursuant
 6 to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act,
 7 42 U.S.C. §§ 10801-51, the Developmental Disabilities Assistance and Bill of
 8 Rights (DD) Act, 42 U.S.C. §§ 15041-45, and their implementing regulations, or
 9 limit DRW's authority as the Washington State protection and advocacy system,
 10 including its ability to access Defendants' records under federal and state law.
 11

12 20. **Voluntary and Knowing Agreement:** The Parties verify that they
 13 have read and understand this Settlement Agreement, that they enter into this
 14 Agreement knowingly and voluntarily, and that this Agreement represents the en-
 15 tire agreement of the Parties in this case.
 16

17 21. **Binding Effect:** This Settlement Agreement binds and inures to the
 18 benefit of the Parties and their successors.
 19

20 Accepted:

21 
 22

23 TODD DOWLER
 24 Assistant Secretary
 25 Department of Corrections
 26

05-31-2023

DATE



5/31/2023

CANDIE M. DIBBLE, WSBA #42279
TIM LANG, WSBA #21314
Assistant Attorneys General
Corrections Division

DATE

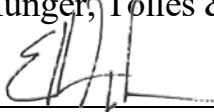
Accepted:



5/30/23

KATHERINE M. FORSTER, CA Bar #217609
Attorney for Plaintiffs
Munger, Tolles & Olson LLP

DATE



5/31/23

ETHAN D. FRENCHMAN, WSBA #54255
DANNY WAXWING, WSBA #54225
HEATHER McKIMMIE, WSBA #37630
DAVID CARLSON, WSBA #35767
Attorney for Plaintiffs
Disability Rights Washington

DATE



5/30/23

JOE SHAEFFER, WSBA #33273
Attorney for Plaintiffs
MacDonald Hoague & Bayless
On behalf of the American Civil
Liberties Union of Washington
Foundation

DATE



5/30/23

NANCY TALNER, WSBA #11196
JAZMYN CLARK, WSBA #48224
Attorney for Plaintiffs
American Civil Liberties Union of
Washington Foundation

DATE



5-24-23

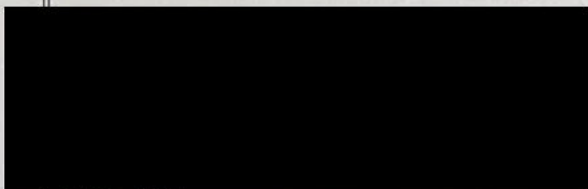
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EXHIBIT 1

PERMANENT INJUNCTION LANGUAGE

1. Defendants are **permanently enjoined** from publicly releasing any records, including, but not limited to, housing placement, discipline, PREA, grievance, and health care records, that identify or can reasonably be associated with the identity of any class member and directly relate to a class member's: (1) PREA risk assessment, risk indicator, and monitoring plan; (2) involvement in any PREA investigations or allegations, including but not limited to reports of sexual abuse or sexual harassment; (3) transgender, intersex, nonbinary, or gender nonconforming status; (4) sexual orientation; (5) genital anatomy; (6) history of sexual victimization; and (7) medical and mental health diagnoses, conditions, treatment, or procedures.
2. Defendants are not enjoined from sharing such records in a non-public manner consistent with federal and state law and penological necessity. Defendants may share this information with other correctional and law enforcement agencies, outside health care treatment providers for the purposes of treatment, the Office of the Corrections Ombuds, and the state protection and advocacy system. Defendants may also release this information in defensive litigation where a plaintiff has already disclosed the exact same information in open court, but in all other circumstances information or records

PERMANENT INJUNCTION LANGUAGE

covered by this Injunction must be distributed with a protective order and filed in court under seal.

3. Defendants are not enjoined from disclosing records that have been through the Parties' review and approval process provided in the Settlement Agreement (ECF No. ____). Records described in Section 1 above that have not been through the review process shall not be disclosed as long as this order remains in effect.
4. This Order shall expire one year after entry unless by order of this Court.

EXHIBIT 2

TITLE: Newsbrief 23-01

Effective: February ___, 2023

SUBJECT: Body Scanner Images

Body Scanner Images should be withheld from disclosure in their entirety, when doing so, cite to the following:

RCW 42.56.475(1)(a) – “The following information or records created or maintained by the department of corrections is exempt from public inspection and copying under this chapter: Body scanner images from any system designed to detect and visualize contraband hidden in body cavities or beneath clothing, including backscatter X-ray, millimeter wave, and transmission X-ray systems.”

Please remember:

- You must pull and maintain a copy of the responsive body scan image(s) even though it will be withheld in its entirety.
- A copy of the responsive image(s) must be maintained with the public records file per required retention schedule.

Please reference the “ESHB 1956/RCW 42.56.475 Implementation Training UPDATE” found on the PRU SharePoint site for more information and specific examples.

TITLE: Newsbrief 23-02

Effective: February ___, 2023

SUBJECT: PREA Records & Reports of Sexual Abuse & Harassment Involving Incarcerated Individuals

ESHB 1956 was signed into law in March 2022 and protects the following information from disclosure related to Prison Rape Elimination Act (PREA), Sexual Abuse and Sexual Harassment Records involving any incarcerated individual:

PREA Risk Assessments, Risk Indicators, and Monitoring Plans

All of the following PREA information must be withheld from disclosure, regardless of where it may be found:

- PREA Risk Assessments
- Risk Indicators (“No Risk,” “Potential Victim,” “Potential Perpetrator,” or “Dual Identifier”)
- Monitoring Plans and existence of a PREA Monitoring Plan for an individual

Some of the most common locations these records are often found are within OMNI, PREA investigations, & OnBase, however, this information is exempt from disclosure regardless of where the record may be found.

Reports of Sexual Abuse and Sexual Harassment

Reports of sexual abuse and sexual harassment involving incarcerated individuals are protected from disclosure and should be withheld, this includes:

- All open PREA investigations – PREA investigations are not disclosable while the investigation is ongoing.
- Any reporting of a sexual abuse or harassment allegations - This exemption applies regardless of:
 - Who is reporting the concern
 - The ultimate finding of any investigation
 - Where records are located (Common locations include PREA hotline recordings, IMRS reports, Resolution requests, kites, JPAY messages, emails, etc.)

Please see Newsbrief 17-01: “Exempt PREA Records” for more information about redacting reports of sexual abuse or harassment.

- All identifiers in agency records that may lead to the identity of any incarcerated individual involved. (Examples include but are not limited to name, dob, DOC #, SSN's, FBI #'s, Cell #, etc.)

Reports of sexual harassment include complaints of derogatory language related to sexual orientation or gender identity, as well as the persistent misgendering or use of incorrect gender pronouns or gendered language.

Closed PREA Investigation Records

For closed PREA investigations, the disclosure of records depends on whether the request specifies an incarcerated individual(s) and whether the closed PREA investigation resulted in a substantiated finding against an incarcerated individual as follows:

- If a public records request seeks PREA investigation records about specific incarcerated individual(s) (e.g. "all PREA records for inmate Jane Doe"), staff must withhold the records unless the specified individual(s) was determined to be the substantiated perpetrator of the PREA allegation, in which case staff must redact all identifiers of other incarcerated individuals.
- If a public records request is about DOC staff, contractors, or volunteers (e.g. "all PREA records for Officer Jane Doe"), staff must redact all identifiers of incarcerated individuals unless they were the substantiated perpetrator of the PREA allegation.
- If a public records request does not seek records about a specific individual, staff must redact all identifiers of incarcerated individuals, unless an incarcerated individual was determined to be the substantiated perpetrator of the PREA allegation. In that case, the name of the substantiated perpetrator would not be redacted, but any identifying information about victims or witnesses who are incarcerated individuals must be redacted.
- If a closed PREA investigation has both substantiated and unsubstantiated allegations regarding an incarcerated individual, staff should only redact information where it is clear that the information relates solely to an unsubstantiated allegation.

Other Records Containing PREA Information or Reports

Other records, including disciplinary records and OMNI records, may contain PREA information, such as reports of sexual abuse, or the names of victims or witnesses in PREA investigations. In

such circumstances, the identifying information of any incarcerated individuals who were the victim(s), witnesses, or not-substantiated perpetrator in the PREA case is exempt.

Exceptions:

The subject of the record or a 3rd party with a signed release can receive this exempt information, however, information regarding other incarcerated individuals in the records must be redacted.

When redacting or withholding any of the above information, cite to the following:

28 C.F.R. § 115.61(b) - "Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions." This federal regulation constitutes an "other statute" under RCW 42.56.070(1).

RCW 42.56.475 (1)(b) – "The following information or records created or maintained by the department of corrections is exempt from public inspection and copying under this chapter: The following information and records created or maintained pursuant to the federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations: (i) Risk assessments, risk indicators, and monitoring plans; (ii) Reports of sexual abuse or sexual harassment, as defined under 28 C.F.R. 115.6; (iii) Records of open prison rape elimination act investigations; and (iv) The identities of individuals other than department of corrections staff, contractors, and volunteers, in closed prison rape elimination act investigation reports and related investigative materials; however, the identity of an accused individual is not exempt if the allegation is determined to have been substantiated."

RCW 42.56.240(2) – "Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath."

RCW 42.56.070(1) – "Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it

makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

Please reference the “ESHB 1956/RCW 42.56.475 Implementation Training UPDATE” found on the PRU SharePoint site for more information and specific examples.

TITLE: Newsbrief 23-03

Effective: February ___, 2023

SUBJECT: Incarcerated Individual Health Information Located Outside Medical Records

ESHB 1956 was signed into law in March 2022 and protects health information in records other than an incarcerated individual's medical, mental health or dental files (RCW 70.02, Exemption #15 on the DOC exemption log apply to these medical records).

- Definition of an Incarcerated Individual for purposes of application of this exemption includes any individual currently or formerly under DOC jurisdiction. In short, all individuals with a DOC #.

RCW 42.56.475(1)(c), protects any information in whatever records it may exist that identifies or can readily be associated with the identity of an incarcerated individual and directly relates to the following:

- Medical, mental health or dental diagnosis or conditions,
- Medical, mental health or dental services, treatments, or procedures,
- Complaints, kites, resolution requests, JPAY messages, or other communications about such services,
- Transgender, intersex, nonbinary, or gender nonconforming status,
- Sexual orientation,
- Genital anatomy
- Gender affirming care or accommodations, OTHER THAN, an incarcerated individual's preferred name, pronouns, and gender marker.

What is NOT considered health information?

- Information already exempt under RCW 42.56.360(2) and RCW 70.02, and
- Information related to injuries, OTHER THAN injuries related to medical procedures or genital anatomy, contained in incident reports, infraction records, or use of force reports prepared by DOC staff other than health care providers.
- A person's preferred name, pronouns, and gender marker.

Redaction v. Total Withholding

- If the existence of the record itself would disclose protected information specific to any individual, the records must be withheld in its entirety or the existence of the form as related to a specific individual must be redacted (Examples include but are not limited to, DOC 02-420 Preferences Request Form; DOC 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-Binary Individuals; DOC 02-385 Housing Review for Transgender, Intersex, and Non-Binary Individuals).
- If existence of the record does not give away any information that is protected under the definition of health information, then the record should be redacted to protect any health information it may include.

Exemption Log Requirement Exception re: Health Information

- Specific to redactions and/or withholdings of “health information” made under this bill:
 - Cite to 1(C) ***without further explanation***.
- Only the # of pages withheld should be included on the exemption log NOT any additional information usually required when withholding other types of exempt records.

Exception

The subject of the record or a 3rd party with a signed authorization from the subject of the record can receive their own records. Ensure any other incarcerated individuals’ health information found in the same records is redacted.

When redacting or withholding any of the above information, cite to the following:

RCW 42.56.475(1)(c) – “The following information or records created or maintained by the department of corrections is exempt from public inspection and copying under this chapter: Health information in records other than an incarcerated individual's medical, mental health, or dental files.”

Note: per RCW 42.56.475(3) – “An agency refusing, in whole or in part, inspection of a public record containing information listed in subsection (1)(c) of this section may cite to subsection (1)(c) of this section, without further explanation, when providing the brief explanation required by RCW 42.56.210(3), and shall also identify the number of pages withheld, if any pages are withheld in their entirety.

Please reference the “ESHB 1956/RCW 42.56.475 Implementation Training UPDATE” found on the PRU SharePoint site for more information and specific examples.

ESHB 1956/RCW 42.56.475 Implementation Training UPDATE

DOC PRU - 2023

ESHB 1956

In March 2022, ESHB 1956 was signed into law and created additional exemptions to the PRA specific to DOC records. These exemptions were added to the Public Records Act under RCW 42.56.475 and include:

1. Body scanner images
2. Specific PREA records & Sexual abuse and harassment information
3. Health information (definition provided in bill) located outside an Incarcerated Individual's medical/mental health or dental files.

Body Scanner Images

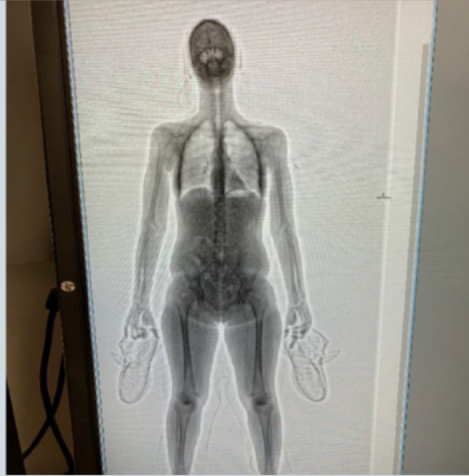
RCW 42.56.475(1)(a) exempts:

Body scanner images from any system designed to detect and visualize contraband hidden in body cavities or beneath clothing, including backscatter X-ray, millimeter wave, and transmission X-ray systems.

These records must be gathered and a copy of any responsive body scanner images maintained with the public records file even though they must be withheld from disclosure in their entirety.

- Currently there is a body scanner at WCCW only but this will be expanding to other facilities in the future.

Body Scanner Images are **EXEMPT** in
their Entirety



RCW 42.56.475(1)(b) – PREA Records

This bill exempts the following information and records created or maintained pursuant to the federal rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations:

- Risk assessments,
- Risk Indicators,
- Monitoring plans,
- Reports of sexual abuse or sexual harassment as defined by 28 C.F.R. 115.6, (regardless of how it's reported, phone recording, IMRS, correspondence, etc.)
- Records of open PREA investigations,
- The identities of individuals other than DOC staff, contractors, and volunteers, in closed PREA investigation reports and related investigation materials, HOWEVER, the identity of an accused incarcerated individual is NOT exempt IF the closed investigation is substantiated.

EXCEPTION TO THE RULE

- The exemption of information for both PREA and health information does NOT apply to requests made by the incarcerated individual who is the subject of the information, or where the subject of the information has provided an authorization or to the incarcerated individual's personal representative.
- Remember to review the records for information concerning other incarcerated individuals that may be involved where they are not the requestor and there is no signed release for their information.


PREA Risk Assessments, Indicators & Monitoring Plans

All of the following PREA information must be withheld from disclosure:

- PREA Risk Assessments
- Risk Indicators (*"No Risk," "Potential Victim," "Potential Perpetrator," or "Dual Identifier"*)
- Monitoring Plans

Some of the most common locations these records are found are within OMNI, PREA investigations, & OnBase, however, this information is exempt from disclosure regardless of where the record may be found.

PREA Risk Assessments

 **PRISON RAPE ELIMINATION ACT (PREA)
RISK ASSESSMENT**

Name		DOC number	Date
Reason for assessment	Initial	Transfer	Subsequent

SEXUAL VICTIMIZATION POTENTIAL				
Assessment question	Yes	No	Information Unavailable	Points
Is this the individual's first prison incarceration as an adult? • Include only adult prison incarcerations. If this is the individual's first adult prison incarceration, but there have been multiple juvenile incarcerations, that information can be used as part of an override request.				2
Is the individual under the age of 25 or over the age of 65?				1
Is the individual small in stature? • Males: Under 5'8" and/or under 140 pounds • Females: Under 5'0" and/or under 115 pounds				1
Has the individual ever been sexually assaulted/abused while incarcerated in any type of facility? If yes, DOC 13-509 PREA Mental Health Notification and a narrative is required.				11
Has the individual ever been convicted of a sex offense or a crime with sexual motivation in which the victim was a child of 13 years or younger or elderly person of 65 years or older? If yes, a narrative is required.				3

DOC 07-019 (Rev. 03/09/22) Page 2 of 2 DOC 490.800, DOC 490.820
Scan Code RP01 Scan & Toss

- There is a hard copy form that can be used.
- This same information is recorded in OMNI by the Classification Counselor

PREA Indicators

potential victim, potential predator, dual identified, and no risk identified


What redactions would be required if this record were responsive to a request for "The OMNI file for Tiger Kidney" from a third-party requestor with no ROI?

Inmate: KIDNEY, Tiger Round (693652)				ERD: 03/10/2023	Contact: RLC: HVPD				
	DOB: 2/1/1973	Comm Concerns: No	No Risk category PREAs	Custody Level: Close	Body Status: Active Inmate Location:				
	Age: 50	Wrap Around: No	No Risk Identified	Category: Regular Inmate	WCC-RC - R4 / SH15P				
	Gender: Male	Safety Concerns: Yes	ESR: SO Lvl	Single Cell Required:	CQ/CCO: Ames, Kerry L.				
	STG Info: No	ORCS: Unknown	Admission Date: 03/3/2020						
Supervision:									
Inmate: KIDNEY, Tiger Round (693652)									
View Offender Photo Load Face Sheet									
Gender: Male	DOB: 2/1/1973	Age: 50	Category: Regular Inmate	Body Status: Active Inmate					
RLC: HVPD	Wrap-Around: No	Comm. Concerns: No	Custody Level: Close	Location: WCC-RC - R4 / SH15P					
ERD: 03/10/2023				CQ/CCO: Ames, Kerry L.					
ORCS: Unknown									
Offender Separation									
View Active View All									
Separate From:									
Separation DOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Date Created	Authorizing Staff	Notes Exist	
038432	Offender, Nicholas Scott	A-CC-L	PREA Predator	Quid	Active	07/24/2016	Heaven, Evan A	Yes	View

PREA Indicators

potential victim, potential predator, dual identified, and no risk identified

Inmate: KIDNEY, Tiger Round (693652) ERD: 03/10/2023 [Print case file](#) [View All Photos](#) [Local Face Sheet](#)



PULHES OXTR
31110113

DOB: 2/1/1973	Comm Concerns: No	so Risk category: PREA:	custody Level: Close	Body Status: Active Inmate Location:
Age: 50	Wrap Around: No	No Risk Identified	Category: Regular Inmate	WCC-RC - R4 / SH1SP
Gender: Male	Safety Concerns: Yes	ESR SO Lvl:	Single Cell Required:	CQ/CCO: Ames, Kamy L
STG Info: No	ORCS: Unknown			Admission Date: 02/5/2020

Supervision:

Inmate: KIDNEY, Tiger Round (693652) [View Offender Photo](#) [Local Face Sheet](#)

Gender: Male	DOB: 2/1/1973	Age: 50	Category: Regular Inmate	Body Status: Active Inmate
RLC: HMPD	Wrap-Around: No	Comm. Concern: No	Custody Level: Close	Location: WCC-RC - R4 / SH1SP
ESR: 03/10/2023				CQ/CCO: Ames, Kamy L
ORCS: Unknown				

Offender Separation

View Active: ☒ View All: ☐

Separate From:

Separation DOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Date Created	Authorizing Staff	Notes Exist
108833	CAGE, Nicholas Scott	ANCC-L	No Risk Identified	Quick	Active	07/01/2016	Maxon, Dawn A	Yes View

Specific to .475, redact the protected health information PULHES codes and PREA indicators: "No Risk Identified" and "PREA Predator".

PREA Indicators Cont....

What redactions would be required if these records were responsive to a request for "The OMNI files of Swan Childer and Tootie Bads" from a third-party requestor with no ROI?

Inmate: CHILDER, Swan Tree (432509)				ERD: 10/10/2023	Contact RLC: HV
	DOB: 06/13/1964	Comm Concerns: Yes	SD Risk Category: Invalid	Custody Level: Close	Body Status: Active Inmate Location:
	Age: 39	Wrap Around: No	PREA: Dual Identified	Category: Regular	WSP-Main - Q / TS3001P
	Gender: Male	Safety Concerns:	CSR SD Lvl: Level 3 (01/03/2025)	Inmate: [Redacted]	CC/CCO: [Redacted]
	STG Info: Yes	ORCS: Unknown	Single Cell Required: No	Admission Date: 12/21/2010	
<div> <div>PULHESDXTR 22111122112</div> <div> Supervision: Yes AA-101506572-CCB </div> </div>					

Inmate: BADS, Tootie Mary (479208)				ERD: 01/03/2024	Contact RLC: MOD
	DOB: 03/19/1991	Comm Concerns: No	SD Risk category: Invalid	Custody Level: Medium	Body Status: Active Inmate
	Age: 32	Wrap Around: No	PREA: Potential Victim	Category: Regular	Location: wcow - MSU / MD2581
	Gender: Female	Safety Concerns: Yes	CSR SD Lvl: Level 3 (10/05/2025)	Inmate: [Redacted]	CC/CCO: [Redacted]
	STG Info: No	ORCS: Unknown	Single Cell Required:	Admission Date: 12/18/2010	
<div> <div>PULHESDXTR 22111122112</div> <div> Supervision: Yes AA-121015578-CCB </div> </div>					

PREA Indicators Cont....

Inmate: CHILDER, Swan Tree (432509)				ERD: 10/10/2023	Contact RLC: HV
	DOB: 06/13/1984	Comm Concerns: Yes	SD Risk Category: Invalid	Custody Level: Close	Body Status: Active Inmate Location:
Age: 39	Wrap Around: No	PREA: Dual Identified	Category: Regular	WSP-Main - Q / TS3001P	
Gender: Male	Safety Concerns:	ESR SD Lvl: Level 3 (01/03/2055)	Inmate:	CC/CCO: McLaughlin, Cory P.	
STG Info: Yes	ORCS: Unknown	Single Cell Required: No	Admission Date: 12/21/2010		
PULHESDCTR 0211122112					
Supervision: Yes AA-101506572-CCB					

Inmate: BADS, Tootie Mary (479208)				ERD: 01/02/2024	Contact RLC: MOD
	DOB: 03/10/1991	Comm Concerns: No	SD Risk category: Invalid	Custody Level: Medium	Body Status: Active Inmate
Age: 32	Wrap Around: No	PREA: Potential Victim	Category: Regular	Location: MOW - MSU / MC2581	
Gender: Female	Safety Concerns: Yes	ESR SD Lvl: Level 3 (10/05/2025)	Inmate:	CC/CCO: Harrison, Andrew D.	
STG Info: No	ORCS: Unknown	Single Cell Required:	Admission Date: 12/18/2010		
PULHESDCTR 0211122112					
Supervision: Yes AA-121015378-CCB					

Specific to .475, redact the protected health information PULHES codes and PREA indicators: "dual identified" and "potential victim."

PREA Indicators Cont....

What redactions would be required if this record were responsive to a request for "All OMNI files of transgender inmates at WCCW" from a third-party requestor with no ROI?

Inmate: Baggs, Mincie Martini (338207) [View Offender Photo](#) [Legal Face Sheet](#)

Gender: Female	DOB: 02/19/1986	Age: 37	Category: Regular Inmate	Body Status: Active Inmate
RLC: HD	Wrap-Arounds: No	Comen. Concern: No	Custody Level: Medium	Location: wccw - MSU / MS074L
ERO: 01/02/2026				OD/DOC: Harrison, Amber D
ORCS: Unknown				

Offender Separation

View Active ☐ View All ☐

Separate From:

Separation OOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Date Created	Authorizing Staff	Notes Exist	View
257484 260031	PIRATE, OneEye FENCER, Gary Bone		Sexual Activity PREA Predator	Facility	Inactive Inactive	10/30/2017 12/02/2015	Harrison, Amber D Padilla, John J	Yes Yes	View

Inmate: BAGGS, Mincie Martini (338207) [View Offender Photo](#) [Legal Face Sheet](#)

Gender: Female	DOB: 02/19/1986	Age: 29	Category: Regular Inmate	Body Status: Active Inmate
RLC: HD	Wrap-Arounds: No	comm. concern: No	Inmate Custody Level: Medium	Location: wccw - MSU / MS074L
ERO: 01/03/2024				OD/DOC: Harrison, Amber D
ORCS: Unknown				

Offender Separation

Separation Type: ☐ Separate From

Separation OOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Authorizing Staff
260031	FENCER, Gary Bone		PREA Predator	Facility	Inactive	Padilla, John J

[Create Offender Separation](#)

Offender Separation Narrative

Date: 02/25/2015

Narrative: Offender Fencer #260031 was involved in an investigation which resulted in him receiving a WAC 639 infraction for Sexual Harassment. The victim in this case was Baggs. Superintendent Johnson informed me that these two offenders should never be placed at the same facility. - Bob Jackson

[Create Narrative](#)

Assume that Mincie Baggs is transgender.

PREA Indicators Cont....

Inmate: [REDACTED] (336202) [View Offender Photo](#) [Legal Face Sheet](#)

Gender: Female	DOB: [REDACTED]	Age: 37	Category: Regular Inmate	Body Status: Active Inmate
RLC: RD	Wings/Room: No	Comm. Concern: No	Custody Level: Medium	Location: wing - MSJ / [REDACTED]
GRD: 01/03/2006				CO/COO: Narcissa, Amber U
ORCS: Unknown				

Offender Separation

View Active ☐ View All ☐

Separate From: ☐ Separation DOC No. ☐ Offender Name ☐ Location ☐ Separation Reason ☐ Separation Level ☐ Separation Status ☐ Date Created ☐ Authorizing Staff ☐ Notes Exist ☐ View

Separation DOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Date Created	Authorizing Staff	Notes Exist	View
260031	FENCER, Gary Bone	[REDACTED]	[REDACTED]	Facility	Inactive	10/10/2017	Narcissa, Amber U	Yes	View

Inmate: [REDACTED] (336207) [View Offender Photo](#) [Legal Face Sheet](#)

Gender: Female	DOB: [REDACTED]	Age: 29	Category: Regular Inmate	Body Status: Active Inmate
RLC: RD	Wings/Room: No	Comm. Concern: No	Inmate Custody Level: Medium	Location: wing - MSJ / [REDACTED]
GRD: 01/03/2004				CO/COO: Narcissa, Amber U
ORCS: Unknown				

Offender Separation

Separation DOC No. ☐ Offender Name ☐ Location ☐ Separation Reason ☐ Separation Level ☐ Separation Status ☐ Date Created ☐ Authorizing Staff ☐ Notes Exist ☐ View

Separation DOC No.	Offender Name	Location	Separation Reason	Separation Level	Separation Status	Date Created	Authorizing Staff	Notes Exist	View
260031	FENCER, Gary Bone	[REDACTED]	[REDACTED]	Facility	Inactive	10/10/2017	Narcissa, Amber U	Yes	View

Offender Separation Narrative

Date: 06/25/2018 Narrative: Offender Fencer #260031 was involved in an investigation which resulted in her receiving a WAC L99 infraction for Sexual Harassment. The victim in this case is [REDACTED] identified as [REDACTED]. Offender Johnson informed me that these two offenders should never be placed in the same facility. - Bob, Jackson

[Create Narrative](#)

Specific to .475, redact the name of the transgender individual, their DOC #, cell #, DOB, the identity of the individual as a victim in a PREA case, and PREA indicators of all individuals.

PREA Monitoring Plans

What redactions would be required if this OMNI page were responsive to a request for "All records related to Fern Peliciano, DOC #232223" from a third-party requestor with no ROI.

Details

Date & Time Created: 2/02/2022 3:02 PM

Offender Location At Occurrence: WCCW

Date & Time Of Occurrence: 2/02/2022

DOC No.: 232223

Offender Name: PELICIANO, Fern

Author Name: Bird, Jessica L

Events: PREA Monitoring (PM)

Text

Met with P Per policy DOC 490.820 a monitoring plan has been established to address the following: Talked to the Incarcerated Individual and told her to come to staff if she is being pressured in any way and the Counselor will be checking on her status frequently. a) Increased staff initiated contact between the assigned Counselor and the Incarcerated Individual. b) Increased Incarcerated Individual reporting to staff (e.g., checking in with custody staff, the assigned Counselor, etc.). c) Notification of screening results to unit staff with note to monitor the Incarcerated Individual for changes in baseline behavior (e.g., cell change requests, giving/receiving store, depression, staff avoidance, etc.) and referral to Mental Health if changes occur. d) Instructing the Incarcerated Individual to immediately report any sexually motivated interactions by other Incarcerated Individuals. e) Requiring the Incarcerated Individual to maintain scheduled meetings with mental health staff, other items that correlate with any of the specific information contained in the assessment.

PREA Monitoring Plans

Details

Date & Time Created: 2/02/2022 3:02 PM
 Offender Location At Occurrence: WCCW
 Date & Time Of Occurrence: 2/02/2022
 DOC No.: 232223
 Offender Name: PELICIANO, Fern
 Author Name: Bird, Jessica L
 Events: PREA Monitoring (PM)

Text

Met with P Per policy DOC 490.820 a monitoring plan has been established to address the following: Talked to the Incarcerated Individual and told her to come to staff if she is being pressured in any way and the Counselor will be checking on her status frequently. a) Increased staff initiated contact between the assigned Counselor and the Incarcerated Individual. b) Increased Incarcerated Individual reporting to staff (e.g., checking in with custody staff, the assigned Counselor, etc.). c) Notification of screening results to unit staff with note to monitor the Incarcerated Individual for changes in baseline behavior (e.g., cell change requests, giving/receiving store, depression staff avoidance, etc.) and referral to Mental Health if changes occur. d) Instructing the Incarcerated Individual to immediately report any sexually motivated interactions by other Incarcerated Individuals. e) Requiring the Incarcerated Individual to maintain scheduled meetings with mental health staff, other items that correlate with any of the specific information contained in the assessment.

Per .475, redact the text narrative and the PREA Monitoring event type to the left of the narrative because PREA monitoring plans are protected and the association of a PREA monitoring plan with an individual necessarily discloses their status as transgender, a victim of sexual abuse/harassment, or that their PREA risk score is a potential victim or dual-identifier.

PREA Investigations & Reports of Sexual Abuse & Harassment

Reports of Sexual Abuse and Sexual Harassment involving incarcerated individuals are protected from disclosure and should be withheld, this includes:

- All open PREA investigations – PREA investigations are not disclosable while the investigation is ongoing.
- Any reporting of a sexual abuse or harassment allegations - This exemption applies regardless of:
 - Who is reporting the concern
 - The ultimate finding of the investigation
 - Where records are located (*Common locations include PREA hotline recordings, IMRS reports, Resolution requests, etc.*)

PREA Investigations & Reports of Sexual Abuse & Harassment

- All identifiers in agency records that may lead to the identity of any incarcerated individual involved. *(Examples include but are not limited to name, dob, DOC #, SSN's, FBI #'s, Cell assignment #, etc.)*

When looking at redaction of identifiers, always ask yourself,
“How identifying is it”?

- Brown hair? Gray hair? No hair?
- Born in Washington? Born in Seattle, WA? Born in Manilla Philippines?
- Scar? 2” scar? 2” scar on right forearm?
- WA State Conviction? King County Conviction? Conviction Cause #?

Reports of Sexual Abuse & Harassment

Sexual abuse and sexual harassment reports include but are not limited to:

- PREA hotline records and associated Incident Management Reporting System (IMRS) reports of those recordings;
- PREA complaints by incarcerated persons reporting sexual abuse and sexual harassment of themselves or another incarcerated individual;
- Grievances or resolution program filings referencing or reporting an allegation of sexual abuse or sexual harassment;
- OMNI fields relating to safety concerns relating to keep separates or other issues stemming from sexual abuse or harassment; and
- Kites, JPAY messages, emails or other communications by incarcerated persons or third parties reporting sexual abuse or sexual harassment of an incarcerated person to the Department of Corrections.

Sexual Abuse & Harassment Definitions

The following definitions of sexual abuse and sexual harassment apply:

Sexual abuse of an incarcerated person by another incarcerated person includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual Abuse & Harassment Definitions

Sexual abuse of an incarcerated person by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of incarcerated person:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

Sexual Abuse & Harassment Definitions

Sexual abuse of an incarcerated person by a staff member, contractor, or volunteer
continued...

- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities as described above;
- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an incarcerated person, and
- Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an incarcerated person by staff for reasons unrelated to official duties, such as peering at an incarcerated person who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an incarcerated person' naked body or of an incarcerated person performing bodily functions.

Sexual Abuse & Harassment Definitions

Sexual harassment includes:

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one incarcerated individual toward another including disparaging comments about sexual orientation (e.g. remarks about homosexuality) or gender identity (e.g. remarks about being transgender or repeated remarks that use the wrong gender pronoun); and
- Repeated verbal comments or gestures of a sexual nature to an incarcerated individual by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures including disparaging comments about sexual orientation (e.g. remarks about homosexuality) or gender identity (e.g. remarks about being transgender or repeated remarks that use the wrong gender pronoun).

PREA Investigations

The exemption language protects:

The identities of individuals other than DOC staff, contractors, and volunteers, in closed PREA investigation reports and related investigation materials, HOWEVER, the identity of an accused incarcerated individual is NOT exempt IF the closed investigation is substantiated.

- If a PREA investigation contains allegations against either an incarcerated individual or an employee that have both substantiated and unsubstantiated claims, the identity should be left in. See newsbrief 06-09 related to staff PREA investigations.
- When an investigation pertains to a specific individual(s) and contains multiple findings, redact any allegations resulting in an unsubstantiated finding found on the investigative cover sheet.
- All other exemptions that exist still apply so in addition to this new language, the records should be reviewed for any other necessary redactions.

Determining the Status of PREA Investigations

- RCW 42.56.475 exempts open PREA investigation records from disclosure.
- For closed PREA investigations, RCW 42.56.475 exempts the identities of incarcerated individuals who are the victims or witnesses, as well as the identities of perpetrators when the allegation is unsubstantiated or unfounded (i.e. not substantiated).
- Prior to disclosing a PREA investigative record, you must identify whether a PREA case is open or closed and, if the record is closed, you must also determine whether the allegation was substantiated.
- Because cases are re-opened and findings are changed, you cannot accurately determine the status of a PREA investigation by reading a record. You must check the PREA page in the OMNI of the incarcerated individual identified as the alleged perpetrator to determine whether an investigation is open and whether the allegation was substantiated. If a case is open, there will not be a finding listed under the column "Findings." If the case is closed, the final outcome of the case will be noted as substantiated, unsubstantiated, or unfounded.

Open Status of PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....

I/I Debbie Smith 312642 is found to have committed WAC violation 635 committing sexual assault against another offender, as defined in department policy. On 3/15/2021 during a strip search of I/I Debbie what appeared to be a bite mark was observed on I/I Debbie 312642. When asked about the mark, I/I Debbie responded, "I'm not talking about that," she further added that she's been in prison a long time and knows how to report it [PREA]. Photographs were taken of the mark and the incident was reported. On 3/15/2021 information was discovered that I/I Debbie was pressuring I/I Tammy to continue a sexual relationship. A witness to the events stated that I/I Debbie "almost beat her [I/I Tammy] because she didn't want to anymore to have sex anymore." On 3/15/2021, PREA Case 23-20702 was opened to investigate the allegation. I/I Debbie was moved to MSU A side to separate her from the victim. I/I Debbie persistently sent correspondence to the PREA Office at WCCW and to the Superintendent to be moved back to MSU-B side. A thorough investigation of the allegation was completed by CC3 Jimmie Herrod. Based on a preponderance of evidence, PREA investigation 23-20702 was determined to substantiated (the allegation was determined to have occurred). PREA investigation 23-20702 can be reviewed by the Hearings Officer in the PREA office upon request.

What redactions would be required if this record were responsive to a request for "All records relating to PREA cases involving Debbie Smith" by a third-party requestor with no ROI and after checking OMNI it is determined that the investigation is still active?

Open Status of PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....



If the PREA case is
still open, redact the
text in its entirety.

Withhold as shown if investigation is active.

Closed as Unfounded PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....

I/I Debbie Smith 312642 is found to have committed WAC violation 635 committing sexual assault against another offender, as defined in department policy. On 3/15/2021 during a strip search of I/I Debbie what appeared to be a bite mark was observed on I/I Debbie 312642. When asked about the mark, I/I Debbie responded, "I'm not talking about that," she further added that she's been in prison a long time and knows how to report it [PREA]. Photographs were taken of the mark and the incident was reported. On 3/15/2021 information was discovered that I/I Debbie was pressuring I/I Tammy to continue a sexual relationship. A witness to the events stated that I/I Debbie "almost beat her [I/I Tammy] because she didn't want to anymore to have sex anymore." On 3/15/2021, PREA Case 23-20702 was opened to investigate the allegation. I/I Debbie was moved to MSU A side to separate her from the victim. I/I Debbie persistently sent correspondence to the PREA Office at WCCW and to the Superintendent to be moved back to MSU-B side. A thorough investigation of the allegation was completed by CC3 Jimmie Herrod. Based on a preponderance of evidence, PREA investigation 23-20702 was determined to be substantiated (the allegation was determined to have occurred). PREA investigation 23-20702 can be reviewed by the Hearings Officer in the PREA office upon request.

What redactions would be required if this record were responsive to a request for "All records relating to PREA cases involving Debbie Smith" by a third-party requestor with no ROI and it was determined after checking OMNI that PREA Case 23-20702 was closed as unfounded?

I/I Debbie Smith's OMNI shows that the finding in PREA Case 20702 was closed as "Unfounded." Therefore, the entire narrative should be redacted pursuant to RCW 42.56.475(1)(b)(iv) to exempt the identities of incarcerated individuals who are the victims and non-substantiated perpetrators in closed PREA investigations.

Closed as Unfounded PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....



I/I Debbie Smith's OMNI shows that the finding in PREA Case 20702 was closed as "Unfounded." Therefore, the entire narrative should be redacted pursuant to RCW 42.56.475(1)(b)(iv) to protect her identity.

Withhold to protect I/I Debbie Smith's identity as the alleged perpetrator in a PREA case that was not substantiated

Closed as Substantiated PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....

I/I Debbie Smith 312642 is found to have committed WAC violation 635 committing sexual assault against another offender, as defined in department policy. On 3/15/2021 during a strip search of I/I Debbie what appeared to be a bite mark was observed on I/I Debbie 312642. When asked about the mark, I/I Debbie responded, "I'm not talking about that," she further added that she's been in prison a long time and knows how to report it [PREA]. Photographs were taken of the mark and the incident was reported. On 3/15/2021 information was discovered that I/I Debbie was pressuring I/I Tammy to continue a sexual relationship. A witness to the events stated that I/I Debbie "almost beat her [I/I Tammy] because she didn't want to anymore to have sex anymore." On 3/15/2021, PREA Case 23-20702 was opened to investigate the allegation. I/I Debbie was moved to MSU A side to separate her from the victim. I/I Debbie persistently sent correspondence to the PREA Office at WCCW and to the Superintendent to be moved back to MSU-B side. A thorough investigation of the allegation was completed by CC3 Jimmie Herrod. Based on a preponderance of evidence, PREA investigation 23-20702 was determined to substantiated (the allegation was determined to have occurred). PREA investigation 23-20702 can be reviewed by the Hearings Officer in the PREA office upon request.

What redactions would be required if this record were responsive to a request for "All records relating to PREA cases involving Debbie Smith" by a third-party requestor with no ROI and it was determined after checking OMNI that PREA Case 23-20702 was closed as substantiated?

I/I Debbie Smith's OMNI shows that the finding in PREA Case 20702 was closed as "Substantiated." Therefore, the name of victims and any incarcerated witnesses should be redacted. The name of the substantiated perpetrator should not be redacted.

Closed as Substantiated PREA Investigation: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....

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Redact the name of victims and any incarcerated witnesses. The name of the substantiated perpetrator should not be redacted.

Closed Case, Request Does Not Name Individual: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
Sent: Friday, March 18, 2021 8:53 PM
To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
Subject: Didn't see this coming....

I/I Debbie Smith 312642 is found to have committed WAC violation 635 committing sexual assault against another offender, as defined in department policy. On 3/15/2021 during a strip search of I/I Debbie what appeared to be a bite mark was observed on I/I Debbie 312642. When asked about the mark, I/I Debbie responded, "I'm not talking about that," she further added that she's been in prison a long time and knows how to report it [PREA]. Photographs were taken of the mark and the incident was reported. On 3/15/2021 information was discovered that I/I Debbie was pressuring I/I Tammy to continue a sexual relationship. A witness to the events stated that I/I Debbie "almost beat her [I/I Tammy] because she didn't want to anymore to have sex anymore." On 3/15/2021, PREA Case 23-20702 was opened to investigate the allegation. I/I Debbie was moved to MSU A side to separate her from the victim. I/I Debbie persistently sent correspondence to the PREA Office at WCCW and to the Superintendent to be moved back to MSU-B side. A thorough investigation of the allegation was completed by CC3 Jimmie Herrod. Based on a preponderance of evidence, PREA investigation 23-20702 was determined to substantiated (the allegation was determined to have occurred). PREA investigation 23-20702 can be reviewed by the Hearings Officer in the PREA office upon request.

What redactions would be required if this record were responsive to a request for "All records relating to all PREA cases at WCCW" by a third-party requestor with no ROI and it was determined after checking OMNI that the finding in PREA Case 23-20702 was closed as unfounded?

Closed Case, Request Does Not Name Individual: Example

From: O'Hare, Nicole (DOC) <nohare@DOC1.WA.GOV>
 Sent: Friday, March 18, 2021 8:53 PM
 To: Sjolund, Mark R. (DOC) <mrsjolund@DOC1.WA.GOV>
 Subject: Didn't see this coming....

I/I Debbie Smith 312642 is found to have committed WAC violation 635 committing sexual assault against another offender, as defined in department policy. On 3/15/2021 during a strip search of I/I Debbie what appeared to be a bite mark was observed on I/I Debbie 312642. When asked about the mark, I/I Debbie responded, "I'm not talking about that," she further added that she's been in prison a long time and knows how to report it [PREA]. Photographs were taken of the mark and the incident was reported. On 3/15/2021 information was discovered that I/I Debbie was pressuring I/I Tammy to continue a sexual relationship. A witness to the events stated that I/I Debbie "almost beat her [I/I Tammy] because she didn't want to anymore to have sex anymore." On 3/15/2021, PREA Case 23-20702 was opened to investigate the allegation. I/I Debbie was moved to MSU A side to separate her from the victim. I/I Debbie persistently sent correspondence to the PREA Office at WCCW and to the Superintendent to be moved back to MSU-B side. A thorough investigation of the allegation was completed by CC3 Jimmie Herrod. Based on a preponderance of evidence, PREA investigation 23-20702 was determined to be substantiated (the allegation was determined to have occurred). PREA investigation 23-20702 can be reviewed by the Hearings Officer in the PREA office upon request.

Redact the names of all victims, witnesses, and also redact the name of the alleged perpetrator because the case was closed as unfounded.

Reports of Sexual Abuse

What redactions would be required of these records in response to a request for "All records related to transgender inmates accused of sexual assault or harassment" from a third-party requestor with no ROI?

Narrative

Date Narrative

2/06/2018 The PREA unit received a letter from Offender Bartcaded Jacke 820229 addressed to Scott Russell reporting that while at MCC TRU the staff inability to keep him safe from sexual harassment and violent behavior. Jacke was assigned a cellmate Mitch Soure 287545, (C Unit cell 450) a male transgender that is considered a predator by the PREA scoring and violent crime history. Soure started to groom Jacke through manipulative behavior by giving him store items.

Narrative

Date Narrative

05/29/2023 Hotline call: Ya I am calling to report about stuff going on at Stafford Creek Correctional Center Unit H2 A pod there is an offender Bart Earnie (331289 BARTEARNIE is predator arising an

Reports of Sexual Abuse

Narrative

Date Narrative

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Narrative

Date Narrative

05/29/2023 Hotline call: Ya I am calling to report about stuff going on at Stafford Creek Correctional Center Unit H2 A pod there is an offender Bart Earnie (331289 BARTEARNIE is predator arising an

Specific to .475 redactions, redact the full narratives, other than "the PREA Unit received a letter" and "Hotline Call."

PREA Investigation Example

What redactions would be required if this record were responsive to a request for "All PREA Investigations in 2020" from a third-party requestor with no ROI?

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown 22	<input type="checkbox"/> Unknown BUTTERSWORTH, Mary # 346269
Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.	
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
C/O 22 DEMANDED THAT BUTTERSWORTH, Mary #346269 UNDRESS IN FRONT OF HER FOR HER OWN SEXUAL GRATIFICATION	<input type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input checked="" type="checkbox"/> Unfounded
C/O 22 MADE THE COMMENT "I (BUTTERSWORTH) HAVE BIGGER TITTIES THAN SHE DOES AND I 22 WANT TO SEE THEM"	<input type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input checked="" type="checkbox"/> Unfounded

What redactions would be required if this record was responsive to a request for "All PREA investigations in 2020" from a third-party requestor with no ROI? Note that the name of the alleged C/O perpetrator is redacted for reasons other than .475.

PREA Investigation Example

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown 22	<input type="checkbox"/> Unknown BUTTERSWORTH, Mary # 346269

Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.

PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
C/O 22 DEMANDED THAT BUTTERSWORTH Mary #346269 UNDRESS IN FRONT OF HER FOR HER OWN SEXUAL GRATIFICATION	<input type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input checked="" type="checkbox"/> Unfounded
C/O 22 MADE THE COMMENT "I (BUTTERSWORTH) HAVE BIGGER TITTIES THAN SHE DOES AND I 22 WANT TO SEE THEM"	<input type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input checked="" type="checkbox"/> Unfounded

Specific to .475 redactions, redact the victim's name and DOC #346269.

PREA Investigation Example

What redactions or withholdings would be required if this record were responsive to a request for "All PREA records related to PREA Case #12345" by a third-party requestor with no ROI?

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Julie Papiaa	<input type="checkbox"/> Unknown Sinnerton, Micehel 395108

Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.

PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
1. On or about August 10, 2021 WCC/IIU received information that a former CC2 possibly (Julie Papiaa) from SCCC was in contact by phone and Jpay with the I/I Sinnerton, Micehel # 395108. A quick review of calls and Jpay confirmed that they are in contact and involved in expressing their love.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

PREA Investigation Example

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Julie Papiaa	<input type="checkbox"/> Unknown Sinnerton, Micheh 395108
<p>Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.</p>	
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
1. On or about August 10, 2021 WCC/IIU received information that a former CC2 possibly (Julie Papiaa) from SCCC was in contact by phone and Jpay with the I/I Sinnerton, Micheh # 395108. A quick review of calls and Jpay confirmed that they are in contact and involved in expressing their love.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

Redact the victim's name and DOC number.

PREA Investigation Example

What redactions would be required if this record was responsive to a request for "All PREA records related to Prancer Rudolph Loverfield" by a third-party requestor with no ROI?

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Loverfield, Prancer Rudolph #318394	<input type="checkbox"/> Unknown Keepers, Baker #801321

Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.

PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
Inmate-on-Inmate Sexual Abuse It is alleged that on 5/2/2022 approx. 1825 hours I/I Loverfield sexually abused I/I Keepers by grabbed his genitalia over his pants.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded
Inmate-on-Inmate Sexual Harassment It is alleged that on an unknown date and time I/I Loverfield sexually harassed I/I Keepers by repeated asking "me to pull down my pants and show him my cock and balls".	<input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

PREA Investigation Example

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Loverfield, Prancer Rudolph #318394	<input type="checkbox"/> Unknown <u>Keepers, Baker #801321</u>
Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.	
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
Inmate-on-Inmate Sexual Abuse It is alleged that on 5/2/2022 approx. 1825 hours I/I Loverfield sexually abused I/I <u>Keepers</u> by grabbed his genitalia over his pants.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded
Inmate-on-Inmate Sexual Harassment It is alleged that on an unknown date and time I/I Loverfield sexually harassed I/I Keepers by repeated asking "me to pull down my pants and show him my cock and balls".	<input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

Per .475, redact all information related to any not substantiated finding, the victim, and incarcerated witnesses. Do not redact information related to substantiated allegations.

PREA Investigation Example

What redactions would be required if this record were responsive to a request for "All PREA investigation records from WSP in 2019?"

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Pinkerton, Jason #289223	<input type="checkbox"/> Unknown Jaybird, Tommy #182553

Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.

PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
Offender to Offender: Sexual Assault 1. It is alleged incarcerate individual Pinkerton, Jason #289223 assigned to A116-5 entered cell A118 occupied by offender Jaybird, Tommy #182553. Pinkerton admitted to the hostage taking and added that there was kissing, hugging and oral sex taking place while in the cell but added that the contact was consensual.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

PREA Investigation Example

EMPLOYEE AND/OR OFFENDERS INVOLVED	
Accused	Victim
<input type="checkbox"/> Unknown Pinkerton, Jason #289223	<input type="checkbox"/> Unknown Jaybird, Tommy #182553
Please indicate the specific allegations and corresponding finding below, sign the form, and return by email (scan) with the complete investigation report to DOC PREA Triage. Additional lines may be added as needed.	
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)	FINDING
Offender to Offender: Sexual Assault 1. It is alleged incarcerate individual Pinkerton, Jason #289223 assigned to A16-5 entered cell A118 occupied by offender Jaybird, Tommy #182553. Pinkerton admitted to the hostage taking and added that there was kissing, hugging and oral sex taking place while in the cell but added that the contact was consensual.	<input checked="" type="checkbox"/> Substantiated <input type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

Redact the name and identifiers of the victim and any other I/I's except for the accused due to the substantiated finding.

PREA Investigation Example

What redactions would be required if this record were responsive to a request for "All records related to PREA case #12345" by a third-party requestor with no ROI?

EMPLOYEE AND/OR OFFENDERS INVOLVED			
Accused		Victim	
<input type="checkbox"/> Unknown BATEMAN, Cander Jupiter 323284 STUFFER, Apple Sassy 827542		<input type="checkbox"/> Unknown TEMPER, Shelly 9294340 ROSS, Cindy 318571	
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)			FINDING
Allegations: 21-21504 <ul style="list-style-type: none"> It is alleged Apple Stuffer 827542 grabbed Cindy Ross 318571 breast and also attempted to grab Ross's crotch. It is alleged Apple Stuffer 827542 pretended to grab Shelly Temper 9294340 crotch and asked Temper if she wanted, "Some of this." 			<input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded
Allegation: 21-21505 <ul style="list-style-type: none"> It is alleged Cander Bateman 323284 put her arms around and held Cindy Ross 318571 while Apple Stuffer 827542 inserted her fingers into Ross's vagina and anus. 			<input checked="" type="checkbox"/> SUBSTANTIATED <input checked="" type="checkbox"/> UNSUBSTANTIATED <input checked="" type="checkbox"/> UNFOUNDED <input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

PREA Investigation Example

EMPLOYEE AND/OR OFFENDERS INVOLVED			
Accused		Victim	
<input type="checkbox"/> Unknown		<input type="checkbox"/> Unknown	
BATEMAN, Cander Jupiter	323284	TEMPER, Shelly	9294340
STUFFER, Apple Sassy	827542	ROSS, Cindy	318571
PREA ALLEGATION(S) (ADD / DELETE LINES AS NEEDED)			FINDING
Allegations: 21-21504 <ul style="list-style-type: none"> It is alleged Apple Stuffer 827542 grabbed Cindy Ross 318571 breast and also attempted to grab Ross's crotch. It is alleged Apple Stuffer 827542 pretended to grab Shelly Temper 9294340 crotch and asked Temper if she wanted, "Some of this." 			<input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded
Allegation: 21-21505 <ul style="list-style-type: none"> It is alleged Cander Bateman 323284 put her arms around and held Cindy Ross 318571 while Apple Stuffer 827542 			<input checked="" type="checkbox"/> SUBSTANTIATED <input checked="" type="checkbox"/> UNSUBSTANTIATED <input type="checkbox"/> UNFOUNDED
			<input type="checkbox"/> Substantiated <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Unfounded

Specific to .475, redact the names and identifiers of the accused, victims and any I/I witnesses.

Health Information

- RCW 42.56.475(1)(c), exempts health information in records other than an incarcerated individual's medical, mental health or dental files.
- Definition of an Incarcerated Individual for purposes of application of this exemption includes any individual currently or formerly under DOC jurisdiction. In short, all individuals with a DOC #.
- Custody records v. Treatment Records

Definition of Health Information RCW 42.56.475(4)(a)

"Health information" means any information that identifies or can readily be associated with the identity of an incarcerated individual and directly relates to the following:

- Medical, mental health or dental services, treatments or procedures,
- Transgender, intersex, nonbinary, or gender nonconforming status,
- Sexual orientation,
- Genital anatomy
- Gender affirming care or accommodations, OTHER THAN, an incarcerated individual's preferred name, pronouns and gender marker.

Health Information OR Identity

Remember that depending on how the request is worded you can either take out the health information itself (diagnosis, treatment, etc.) **OR** the identity of the individual who the health information pertains to (name, dob, DOC #, SSN's, FBI #'s, Cell assignment #, etc.).

If redacting identity and identifiers, ensure you always ask yourself,
“How identifying is it?”

Diagnosis & Conditions

- Medical, mental health, or dental diagnoses or conditions includes information about a medical, mental health, or dental diagnosis that is provided by any individual and is found outside of a medical, mental health, or treatment file.
- Such conditions include but are not limited to:
 - Sexually transmitted diseases;
 - Mental health conditions such as schizophrenia, depression, personality disorder, or anxiety; and
 - References to gender dysphoria, gender incongruence, or other diagnoses associated with transgender status like gender identity disorder, transvestism, and transsexualism.

Services, Treatments & Procedures

Medical, mental health, or dental services, treatments, or procedures includes but is not limited to:

- Treatments or services like medical appointments, x-rays, or counseling;
- Specific information stating the purpose of the transportation for the means of obtaining medical, mental health or dental service. For example, the information related to the act of the transport itself would not be redacted but the “reason” for the transport (i.e. dialysis, hair removal, root canal) would be redacted;
- The names of medications or prescriptions;
- Participation in DOC health-based programs that require a medical diagnosis (e.g. HIV support group);
- Requests for or complaints about such treatments or services in a kite, grievance, resolution program filing, JPAY message, or email; and
- DOC services to provide accommodations for medical conditions including Health Service Requests (HSRs) and Accommodation Service Requests (ASRs) when the information details a medical, mental health or dental condition or diagnosis.

Transgender, Intersex, Nonbinary, or Gender Nonconforming Status

Information relating to transgender, intersex, nonbinary, or gender nonconforming status includes any reference or information that relates to a person's status except their preferred name, pronouns, and gender marker, such as, for example:

- Terminology that directly discloses an individual's transgender status, like "assigned male at birth," "assigned female at birth," "trans," "transsexual," or "Two Spirit"; and
- Derogatory language like "he/she," "tranny," "she-male," "faggot," "biologically male," "biologically female," "genetically male," "genetically female," "transgendered," or "hermaphrodite."

Sexual Orientation & Genital Anatomy

- Sexual orientation means an individual's romantic or sexual attraction or preference for other people, e.g., straight, gay, lesbian, bisexual, etc.
- Information about genital anatomy includes any information about or describing a person's genitals, e.g., a reference to a person having a penis.

Gender Affirming Care or Accommodations

Gender-Affirming Care or Accommodations means any treatment, service, or activity that relates to transgender, non-binary, intersex, or gender non-conforming people's gender identity as well as requests for or complaints about such gender-affirming care or accommodations, and includes but is not limited to:

- References to gender-affirming healthcare like "sex change," "gender reassignment surgery," "gender affirming surgery," "gender confirmation surgery," "sexual reassignment surgery," "SRS," "GCS," "HRT," "hormone replacement therapy," "bottom surgery," "top surgery," "GD," hair removal, and speech counseling;
- Pre- or post-surgical prosthetics and durable medical equipment like vaginal dilators, breast forms, implants, and chest binders;
- References to the Gender-Affirming Care Review Committee (GA-CRC) or Gender-Dysphoria Care Review Committee (or GD-CRC);
- Reference to a HQ or facility MDT review for a transgender, intersex, or non-binary person;
- Participation in a transgender or LGBTQ peer support or therapy group;
- Participation with the gender-affirming care navigator or gender-affirming medical specialist;

Gender Affirming Care or Accommodations Cont....

- DOC Forms 02-420 Preferences Request; 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals; 02-385 Housing Review for Transgender, Intersex, and Non-binary Individuals; and 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team;
- Requests or discussions relating to transferring from a men's to a women's facility or vice versa;
- Requests to change a gender marker or counseling on changes in legal and identity documents;
- Gender-affirming alternative clothing (including OMNI alternative clothing fields), undergarments, and gender-affirming property like cosmetics;
- Search preferences or accommodations;
- Shower or bathroom accommodations.

Terminology Definitions

Transgender: used both as an umbrella term and as an identity. Broadly, it refers to those who do not identify with or are uncomfortable with their assigned gender and gender roles. As an identity, the term refers to anyone who transgresses traditional sex and gender boxes.

Intersex: having hormones, chromosomes, and/or primary sex characteristics, including genitalia and/or internal sex organs, that are different from what is typically considered to be biologically male or female. This term is not the same as the term “hermaphrodite,” which is an antiquated and offensive term to intersex folks and their allies.

Nonbinary: A person whose gender identity doesn’t fit into the traditional gender binary structure of man or woman.

Terminology Definitions

Gender Non-Conforming: A person who doesn't adhere to societal pressures to conform to gender norms and roles.

Sexual Orientation: Separate from gender identity, this term refers to how one identifies regarding the people to whom one is sexually or romantically attracted. Orientation is not dependent on physical experience, but rather on feelings and attractions.

Gender-Affirming Care: Refers to treatments, ranging from surgery to speech therapy, that support a transgender or nonbinary person in their gender transition.

Gender Marker: Sometimes called a sex marker or sex designator, is a designation on an identifying document or in a database as male (M), female (F), or some other option like X, nonbinary, or undisclosed. This designation is traced back to your birth certificate.

What is NOT Health Information?

- Information already exempt under RCW 42.56.360(2) and RCW 70.02,
- A person's preferred name, pronouns, and gender marker, and
- Information related to injuries, OTHER THAN injuries related to medical procedures or genital anatomy, contained in incident reports, infraction records, or use of force reports prepared by DOC staff other than health care providers.
 - For example, if a transgender individual has gender-affirming surgery and an incident report written by custody staff reports that the individual's stitches ripped, information about the surgery and injury will be redacted, or
 - If an infraction is written related to an alleged assault in which an individual's genitals were harmed, information that references the individual's type of genitals or descriptions of symptoms that would disclose the type of genitals will be redacted.

Redaction v. Total Withholding

- If the existence of the record itself would disclose protected information specific to any individual, the records must be withheld in its entirety
(Examples include but are not limited to, DOC 02-420 Preferences Request Form or 02-384 Housing Protocol for Transgender, Intersex, and Non-Binary Individuals).
- If existence of the record does not give away any information that is protected under the definition of health information, then the record should be redacted to protect any health information it may include.

Health Info. Examples

P REPORTED UA WAS TAKEN SHE IS IN OUTPATIENT TX AT LAKESIDE MILAM SHE JUST GOT OUT OF A 28DY REHAB PROGRAM INTPATIENT TX THIS MORNING, P DIRECTED TO REPORT BACK NEXT WEEK, P WILL RPEORT TO HER DOSA TX THURSDAY WITH VERIFICATION OF INPATIENT TREATMENT SHE JUST RELEASED FROM

What redactions would be required if this record were responsive to a request for "All records related to inmate Copper" by a third-party requestor with no ROI?

DETAILED DESCRIPTION OF INCIDENT

Who was involved, what took place, how did it happen, description of any injuries, damage, use of force, etc. Attach additional sheet, if necessary.

IMUN RN Acosta notified by OPC RN Reynolds of I/M Copper declaring medical emergency for chest pain and unit RN Grimes not yet in unit. If RN Acosta could go evaluate. RN Acosta, with Sgt Kaehler met with I/M Copper cellfront. I/M digressed from chest pain related issues to self-harm intent and refused to contract with RN Acosta for safety. RN Acosta saw I/M Copper a second time cell front to cooperate with custody to come out of cell to exam room for assessment and vital signs. I/M Copper verbally refused to come out of house and previously shattered his plastic inhaler and verbalized he would use the pieces to self harm. RN Acosta note contusion to forehead and superficial scratches to left inner wrist. I/M Copper refused to contract for safety.

Health Info. Examples

P REPORTED UA WAS TAKEN SHE IS IN OUTPATIENT TX AT
LAKESIDE MILAM SHE JUST GOT OUT OF A 28DY REHAB
PROGRAM INPATIENT TX THIS MORNING, P DIRECTED TO
 REPORT BACK NEXT WEEK, P WILL RPEORT TO HER DOSA TX
 THURSDAY WITH VERIFICATION OF INPATIENT TREATMENT SHE
 JUST RELEASED FROM

DETAILED DESCRIPTION OF INCIDENT
 Who was involved, what took place, how did it happen, description of any injuries, damage, use of force, etc. Attach additional sheet, if necessary.

IMUN RN Acosta notified by OPC RN Reynolds of I/M Copper declaring medical emergency for chest pain and unit RN Grimes not yet in unit. if RN Acosta could go evaluate. RN Acosta, with Sgt Kaehler met with I/M Copper cellfront. I/M digressed from chest pain related issues to self-harm intent and refused to contract with RN Acosta for safety. RN Acosta saw I/M Copper a second time cell front to cooperate with custody to come out of cell to exam room for assessment and vital signs. I/M Copper verbally refused to come out of house and previously shattered his plastic inhaler and verbalized he would use the pieces to self harm. RN Acosta note contusion to forehead and superficial scratches to left inner wrist. I/M Copper refused to contract for safety.

Specific to .475, redact all reference to treatment, including type of treatment, treatment location and details and medical and treatment information.

Health Info. Examples

What redactions would be required if this record were responsive to a request for "All records related to inmate Daren" by a third-party requestor with no ROI?

I/I Daren sustained injury to the eyebrow which required three stitches, bruising and swelling to the bridge of his nose and various minor scrapes to fingers and knuckles. Post incident medical examinations including a CT head exam do not identify any serious injuries.

SHORT DESCRIPTION of what happened and how it affected you (ONE issue per grievance):
I want to grieve cos Baltzell, MHP Director K-Ralner, Karrie and Superintendent Ron Haynes for retaliation and discrimination against me. On 2/15/2022 I tried to hang myself in cell MHC4. While I was hanging I was sprayed with OC spray and then cut down from the noose around my neck (See use of force cell entry hand held video footage). Due to the continuation of retaliation of the SECC defendance in Peter Pan vs Robinhood continuing to harrass and exacerbate my mental illness by continuing to destroy all my incoming publications of magazines, books, photos and out-going legal mail to the 9th circuit court of Appeals and by illegally

What redactions would be required if this record were responsive to a request for "All records related to inmate Daren" by a third-party requestor with no ROI?

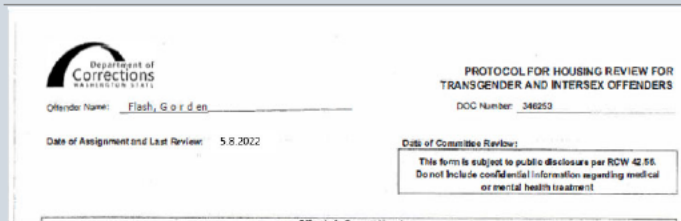
Health Info. Examples

I/I Daren sustained injury to the eyebrow which required three stitches bruising and swelling to the bridge of his nose and various minor scrapes to fingers and knuckles. Post incident medical examinations including a CT head exam do not identify any serious injuries.

SHORT DESCRIPTION of what happened and how it affected you (ONE issue per grievance):
I want to grieve cos Baltzell, MHP Director K. Balner, Karrie and Superintendent Ron Haynes for retaliation and discrimination against me. On 2/15/2022 I tried to hang myself in cell MHC4. While I was hanging I was sprayed with O.C. spray and then cut down from the noose around my neck (see use of force cell entry hand held video footage). Due to the continuation of retaliation of the SCCC defendance in Peter Pan vs Robinhood continuing to harrass and exercebate my mental illness by continuing to destroy all my incoming publications of magazines, books, photos and out-going legal mail to the 9th circuit court of Appeals and by illegally

Specific to .475, redact descriptions of self harm, medical information, medical treatment, and mental illness.

Health Info. Examples



Department of Corrections
WASHINGTON STATE

PROTOCOL FOR HOUSING REVIEW FOR
TRANSGENDER AND INTERSEX OFFENDERS

Offender Name: Fleish, G o r d e n DOC Number: 340293

Date of Assignment and Last Review: 5/8/2022 Date of Committee Review: _____

This form is subject to public disclosure per RCW 42.56.
Do not include confidential information regarding medical
or mental health treatment.

What redactions would be required if this record were responsive to a request for all records relating to transgender individuals at WCCW?

currently living in his own apartment at 10504 Pacific HWY S #10 Tukwila, WA, 98168. He lives alone with no pets but plans to have his wife Alicia Silverston live with him when she releases from prison in about 30 days. His wife has a 20 yr. old daughter named Kenderjoy who currently lives with her grandparents. P stated he had just registered with the King Co. Sheriff's Office and was notified he will have to enroll into sex offender treatment. P is not currently employed and asked about whether he was permitted to have a phone as he does not have one now. Stated there was nothing in his I&S stating this but his board conditions might, advised him to discuss this with CCO Hansen at his NRD and look into a flip phone that does not have internet access just in case. Immediately prior to submitting to a UA 7 with CCO Beal, P provided that he is transgender. Crossgender UA avoided. P filled out the DOC 02-420 Preference Request. P prefers to be called by "Boldman Hopper" and have females conduct searches and UAs. Form signed by CCS Dronk and given to support staff to be scanned into OnBase. Apologized for any confusion or misunderstanding and ensured this would not happen again in the future. Oral Swab administered this date and sent to the lab. Provided P with CCO Johnson's business card and directed him to report back on Tuesday 02/09/2023 by 2:00 pm to go over his board conditions.

Health Info. Examples

Department of Corrections
WA STATE PRISON

Offender Name: [REDACTED]

Date of Assignment and Last Review: 5.8.2022

**PROTOCOL FOR HOUSING REVIEW FOR
TRANSGENDER AND INTERSEX OFFENDERS**

DOC Number: [REDACTED]

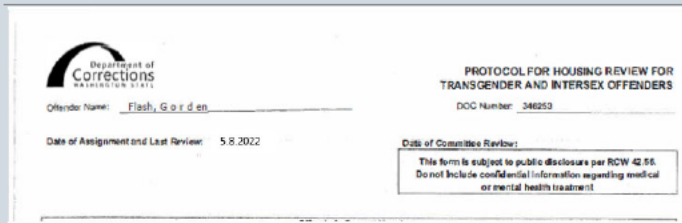
Date of Committee Review:

This form is subject to public disclosure per RCW 42.56.
Do not include confidential information regarding medical
or mental health treatment.

currently living in his own apartment at [REDACTED] 10504 Pacific Hwy S #10 Tukwila, WA, 98168. He lives alone with no pets but plans to have his wife Alicia Silverston live with him when she releases from prison in about 30 days. His wife has a [REDACTED] 20 yr. old daughter named Kenderjoy who currently lives with her grandparents. P stated he had just registered with the King Co. Sheriff's Office and was notified he will have to enroll into sex offender treatment. P is not currently employed and asked about whether he was permitted to have a phone as he does not have one now. Stated there was nothing in his 18S stating this but his board conditions might, advised him to discuss this with CCO Hansen at his NRD and look into a flip phone that does not have internet access just in case. Immediately prior to submitting to a UA 7 with CCO Beal, P provided that he is transgender. Crossgender UA avoided. P filled out the DOC 02-420 Preference Request. P prefers to be called by [REDACTED] "Baldman Hopper" and have females conduct searches and UAs. Form signed by CCS Dronk and given to support staff to be scanned into OnBase. Apologized for any confusion or misunderstanding and ensured this would not happen again in the future. Oral Swab administered this date and sent to the lab. Provided P with CCO Johnson's business card and directed him to report back on Tuesday 02/09/2023 by 2:00 pm to go over his board conditions.

Redact PII of the individual and associated family.

Health Info. Examples



Department of Corrections
WASHINGTON STATE

PROTOCOL FOR HOUSING REVIEW FOR
TRANSGENDER AND INTERSEX OFFENDERS

Offender Name: Flash, Gorden DOC Number: 34053

Date of Assignment and Last Review: 5/8/2022


Date of Committee Review:

This form is subject to public disclosure per RCW 42.56.
Do not include confidential information regarding medical
or mental health treatment.

What redactions would be required if this record was responsive to a request for "all records relating to Gorden Flash" by a third-party requestor without an ROI?

currently living in his own apartment at 10504 Pacific HWY S #10 Tukwila, WA, 98168. He lives alone with no pets but plans to have his wife Alicia Silverston live with him when she releases from prison in about 30 days. His wife has a 20 yr. old daughter named Kenderjoy who currently lives with her grandparents. P stated he had just registered with the King Co. Sheriff's Office and was notified he will have to enroll into sex offender treatment. P is not currently employed and asked about whether he was permitted to have a phone as he does not have one now. Stated there was nothing in his I&S stating this but his board conditions might, advised him to discuss this with CCO Hansen at his NRD and look into a flip phone that does not have internet access just in case. Immediately prior to submitting to a UA 7 with CCO Beal, P provided that he is transgender. Crossgender UA avoided. P filled out the DOC 02-420 Preference Request. P prefers to be called by "Boldman Hopper" and have females conduct searches and UAs. Form signed by CCS Dronk and given to support staff to be scanned into OnBase. Apologized for any confusion or misunderstanding and ensured this would not happen again in the future. Oral Swab administered this date and sent to the lab. Provided P with CCO Johnson's business card and directed him to report back on Tuesday 02/09/2023 by 2:00 pm to go over his board conditions.

Health Info. Examples



**PROTOCOL FOR HOUSING REVIEW FOR
TRANSGENDER AND INTERSEX OFFENDERS**

Offender Name: Flash, Gordon DOC Number: 346253

Date of Assignment and Last Review: 5.8.2022

Date of Committee Review:

This form is subject to public disclosure per RCW 42.56.
Do not include confidential information regarding medical
or mental health treatment.

currently living in his own apartment at 10504 Pacific HWY S #10 Tukwila, WA, 98168. He lives alone with no pets but plans to have his wife Alicia Silverston live with him when she releases from prison in about 30 days. His wife has a 20 yr. old daughter named Kenderjoy who currently lives with her grandparents. P stated he had just registered with the King Co. Sheriff's Office and was notified he will have to enroll into sex offender treatment. P is not currently employed and asked about whether he was permitted to have a phone as he does not have one now. Stated there was nothing in his JS&S stating this but his board conditions might, advised him to discuss this with CCO Hansen at his NRD and look into a flip phone that does not have internet access just in case. Immediately prior to submitting to a UA 7 with CCO Beal, P provided that he is transgender, Crossgender JA avoided. P filled out the DOC 02-420 Preference Request. P prefers to be called by "Baldman, Honner" and have females conduct searches and UAs. Form signed by CCS Dronk and given to support staff to be scanned into OnBase. Apologized for any confusion or misunderstanding and ensured this would not happen again in the future. Oral Swab administered this date and sent to the lab. Provided P with CCO Johnson's business card and directed him to report back on Tuesday 02/09/2023 by 2:00 pm to go over his board conditions.

Withhold the housing protocol and other records (such as DOC Form 02-420) in their entirety because their existence connected with an individual necessarily discloses health information: their transgender, intersex, or non-binary status. In other records, redact all information relating to a person's gender-affirming accommodations and/or transgender status.

Exemption Log Exception re: Health Info.

Specific to redactions and/or withholdings of “health information”:

- Cite to RCW 42.56.475(1)(C) ***without further explanation.***

Only the # of pages withheld should be included on the exemption log NOT any additional information usually required when withholding other types of exempt records.

RECORDS WITHHELD IN THEIR ENTIRETY					
PAGE NUMBER(S)	DOCUMENT DATE	DOCUMENT DESCRIPTION	AUTHOR	RECIPIENT	EXEMPTION(S)
1-3					RCW 42.56.475(1)(c)

EXEMPTIONS SECTION

The following section identifies and explains the exemptions relied upon in the above table(s):

32—HEALTH INFORMATION – “Health information” as defined in RCW 42.56.475(4)(a) is exempt from disclosure per the following:

RCW 42.56.475(1)(c) – “The following information or records created or maintained by the department of corrections is exempt from public inspection and copying under this chapter: Health information in records other than an incarcerated individual’s medical, mental health, or dental files.”

Note: per RCW 42.56.475(3) – “An agency refusing, in whole or in part, inspection of a public record containing information listed in subsection (1)(c) of this section may cite to subsection (1)(c) of this section, without further explanation, when providing the brief explanation required by RCW 42.56.210(3), and shall also identify the number of pages withheld, if any pages are withheld in their entirety.”

RCW 42.56.475

This training after completion will also be posted on the PRU SharePoint site for your ongoing reference.

If in doubt regarding the application of any of these exemptions as you are reviewing records, please consult this training and reach out to your supervisor to discuss.

The words "The End" are written in a large, black, cursive script font. The letters are thick and have a slight shadow effect, giving them a three-dimensional appearance. The text is centered within a white rectangular box.